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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,487	11/26/2003	Scott A. McCuskey	SAMC 63916	9528

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EXAMINER

BAXTER, GWENDOLYN WRENN

ART UNIT

PAPER NUMBER

3632

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/723,487

Applicant(s)

MCCUSKEY ET AL.

Examiner

Gwendolyn Baxter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,7-18,35,36,38-41,44 and 45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,7-18,35,36,38-41,44 and 45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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This is the second Office of application serial number 10/723,487, Weapon Caddy, filed November 26, 2003.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3, 7-10, 13, 17, 18, 35, 36, 38, 39, 44 and 45 are rejected under 35

U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,637,708 to Peterson. The present invention reads on Peterson as follows: Peterson teaches a caddy comprising a mounting bracket (38), a base member (122), and a cradle member (116-120, 50, 60). The mounting bracket is structured and arranged for mounting on a support structure (14). The base member is slidably mounted on the mounting bracket. A coupling (100) is between the mounting bracket and the base member, which permits both sliding and rotating movement between the mounting bracket and the base member. The cradle member is mounted on the base member and structured and arranged for supporting the weapon. The base member is slidable in a substantially horizontal direction when the mounting bracket is mounted on the support structure. The base member is rotatable around a substantially vertical axis when the mounting

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bracket is mounted on the support structure. The cradle member is slidably mounted on the base member. The cradle member is slidable in a substantially vertical direction when the mounting bracket is mounted on the support structure. The cradle member contains a hollow section that slides over a substantially vertical section of the base member and allows the cradle member to telescope on the substantially vertical section of the base member. A strap (not numbered) on the cradle member is for securing the weapon. A mechanical fastener (40) is used for mounting the mounting bracket onto the support structure. The support structure is a tree stand.

Claims 1, 4 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 908,751 to Cooke. The present invention reads on Cooke as follows: Cooke teaches a caddy comprising a mounting bracket (17), a base member (13), and a cradle member (12). The mounting bracket is structured and arranged for mounting on a support structure (10). The base member is slidably mounted on the mounting bracket. A coupling (15) is between the mounting bracket and the base member, which permits both sliding and rotating movement between the mounting bracket and the base member. The cradle member is mounted on the base member and structured and arranged for supporting an article or weapon. The coupling comprises a bolt extending through the mounting bracket and a slot in the base member in which the bolt is slidable, wherein the base member is pivotable around the bolt. The cradle is generally U-shaped.

Claims 35 and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,140,296 to Guillen. The present invention reads on Guillen as follows: Guillen teaches an apparatus comprising a support structure (11) and at least one caddy (20, 30, 45).

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The caddy comprises a mounting bracket (20), a base member (30), a coupling (40), and a cradle member (45). The mounting bracket is structured and arranged for mounting on a support structure. The base member is slidably mounted on the mounting bracket. The coupling is between the mounting bracket and the base member permitting both sliding and rotating movement between the mounting bracket and base member. The cradle member is mounted on the base member and structured and arranged for supporting an article or weapon. The mounting bracket is rotatably mounted on the support structure.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson in view of U.S. Patent No. 3,225,656 to Flaherty. Peterson teaches the limitations of the base claim, excluding the cradle member having an elastic liner.

Flaherty teaches a rifle rest for supporting a weapon. The rest comprises a telescoping cradle member (30), wherein the cradle member includes an elastic liner (41). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the cradle member as taught by Peterson to have incorporated the elastic liner as

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taught by Flaherty for the purpose of absorbing shock which frictionally engages the sides of the weapon which is placed in the cradle.

Claims 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson in view of U.S. Patent No. 5,078,279 to Hancock. Peterson teaches the limitations of the base claim, excluding the strap being elastic and detachable.

Hancock teaches a gun rest for supporting a weapon. The gun rest comprises a cradle member (25, 26), wherein the cradle member includes an elastic detachable strap (31). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the cradle member as taught by Peterson to have incorporated an additional strap as taught by Hancock for the purpose of securing the weapon in the cradle member and prevent any vibrations or movement of the weapon.

Claims 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson in view of U.S. Patent No. 4,017,997 to Peterson. Peterson teaches the limitations of the base claim, excluding the strap includes holes.

Peterson teaches a gun support. The gun support comprises an elastic strap (E,38) including holes (41) for pegs (28, 30), wherein the cradle member (B), wherein the strap is detachable. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the cradle member as taught by Peterson to have incorporated an additional strap having holes therein as taught by Peterson for the purpose of securing the weapon in the cradle member and prevent any vibrations or movement of the weapon.

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Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson in view of U.S. Patent No. 4,150,733 to Plummer. Peterson teaches the limitations of the base claim, excluding the mounting bracket being welded on the support structure.

Peterson teaches the use of welding or screws for securing components. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the mounting bracket as taught by Peterson to have incorporated welding as taught by Plummer for the purpose of joining members together.

### *Response to Arguments*

Applicant argues that Peterson fails to teach a coupling between the mounting bracket and the base member, which permits both sliding and rotating movement. Applicant attention is directed to the rejection set forth above to see the teaching.

### *Conclusion*

The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Teague 5,778,589 teaches a weapon caddy, respectively.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until

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after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

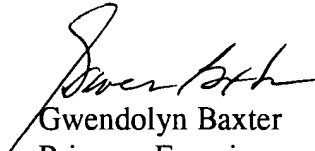
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gwendolyn Baxter whose telephone number is 571-272-6814. The examiner can normally be reached on Monday-Wednesday, 8:30am -4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A Braun can be reached on 571-272-6815. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gwendolyn Baxter  
Primary Examiner  
Art Unit 3632

May 14, 2005